

**CHAPTER IV
IMPROPER CONDUCT (ss 43-52)**

43 Improper conduct

(1) A sheriff shall be guilty of improper conduct if:

- (a) he is negligent or dilatory in the service or execution of any process;
- (b) he makes a false return in respect of the service or execution of any process;
- (c) he demands payment of more than the fees or expenses prescribed by or under any law;
- (d) he contravenes or fails to comply with a provision of the code of conduct referred to in section 16 (4);
- (e) he fails to take all reasonable steps to prevent his deputy sheriff from committing a deed of improper conduct as contemplated in paragraphs (a) - (d) - (c) or (d);
- (f) he commits a deed of insolvency referred to in section 3 of the Insolvency Act, 1936 (Act 24 of 1936);
- (g) he or she commits an offence in terms of this Act, or any other statute in respect of which fraud, dishonesty, extortion or

intimidation is an element;

(Para. (g) substituted by s. 12 (a) of Act 74 of 1998.)

- (A) he or she makes use of fraudulent or misleading representations, including:
 - (i) the simulation of legal proceedings;
 - (ii) the use of simulated official or legal documents;
 - (iii) representation as a police officer; or
 - (iv) the making of unjustified threats to enforce rights; or
- (Para. (A) added by s. 12 (b) of Act 74 of 1998.)
- (f) he or she fails to comply with any regulation pertaining to the service of process.

(Para. (f) added by s. 12 (b) of Act 74 of 1998.)

(2) The acquittal or conviction of a sheriff by any court of law on any criminal charge shall not be a bar to proceedings against him in accordance with this Chapter on a charge of improper conduct, even if the facts set forth in the charge of improper conduct, if proved, constitute the offence set forth in the criminal charge on which he was so acquitted or convicted or any other offence of which he might have been convicted at his trial on the said criminal charge.

(3) If the improper conduct with which a sheriff is charged amounts to an offence of which he has been convicted by a court of law, a certified copy of the record of his trial and conviction by that court shall, upon the identification of the sheriff as the person who has been convicted according to the record, be sufficient proof that he committed such offence, unless:

- (a) the conviction has been set aside by a competent court; or
- (b) the sheriff proves that he was in fact wrongly convicted.